



Lillian M. Lowery, Ed.D.
State Superintendent of Schools

200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • MarylandPublicSchools.org

TO: Members of the State Board of Education
FROM: Lillian M. Lowery, Ed.D. *Lillian M. Lowery*
DATE: July 28, 2015
SUBJECT: COMAR 13A.08.07 Transfer of Educational Records for Children in State-Supervised Care (AMEND)
REPROPOSE

PURPOSE:

To obtain permission to repropose amendments to Regulation .06 under COMAR 13A.08.07 Transfer of Educational Records for Children in State-Supervised Care (Attachment I).

BACKGROUND/HISTORICAL PERSPECTIVE:

In 2008, The President signed the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections Act) (Federal Law 42 U.S.C. §675(1)(G)) into law. Generally, the law amends the Social Security Act to extend and expand adoption incentives and creates an option to provide kinship guardianship assistance. More specific to education, the act requires the Title IV-E agency ensure each child receiving a payment under the Title IV-E plan is attending school full time or has completed secondary school; adds travel to and from school in the foster care maintenance payment definition; and adds a case plan requirement to ensure educational stability for children in foster care. Ensuring educational stability requires child welfare agencies to coordinate with local school systems to ensure children subject to the Fostering Connections Act, remain in the school in which the child was enrolled at the time of placement or immediately enrolled in a new school, whichever is in the best interest of the child.

In 2012, the Maryland General Assembly integrated the educational stability provision of the Fostering Connections Act into Maryland's Education Article. As of July 2014, §7-101 (b)(2)(ii) of the educational article requires local school superintendents to allow a child, subject to the Fostering Connections Act, to remain enrolled in the school in which the child is attending, regardless of where the child is currently living, if it is in the best interest of the child.

In alignment with the Federal Fostering Connections Act (Federal Law 42 U.S.C. §675(1)(G)), the local Department of Social Services (DSS) or the Department of Juvenile Services (DJS), in

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consultation with the local school system, makes the best interest determination. In alignment with the Federal Fostering Connections Act, the cost of transporting the child to and from the school at which the child is enrolled is to be funded by Title IV-E agency, DSS or DJS.

EXECUTIVE SUMMARY:

The Maryland State Department of Education (MSDE) has been charged with establishing a regulation to implement the educational stability provisions of the Fostering Connections Act as described above. Maryland's Department of Human Resources (DHR) developed and passed its educational stability regulation in 2013. In an effort to align with DHR and update the regulation, MSDE, DHR and DJS worked with stakeholders, including local school systems and advocates during 2013-14, to develop this proposed regulation.

At the December 2014 Maryland State Board of Education Meeting, permission was granted to publish COMAR 13A.08.07.06. Opportunities for public comment were provided through publication of the proposed amended regulation in the Maryland Register, Volume 42, Issue 8, Friday, April 17, 2015 (Attachment II). Comments from the Public Justice Center and Advocates for Children and Youth (Attachment III) were received with suggested clarifying revisions. After communicating and meeting with representatives from the two groups and soliciting feedback from local school systems, the proposed regulations have been updated. The changes make it necessary to republish the proposed regulation for public comment.

ACTION:

I am requesting that the State Board repropose amendments to Regulation .06 under COMAR 13A.08.07 Transfer of Educational Records for Children in State-Supervised Care.

Attachments

13A STATE BOARD OF EDUCATION

Subtitle 08 STUDENTS

13A.08.07 Transfer of Educational Records for Children in State-Supervised Care

Authority: Education Article, §§2-205, 2-206, 4-122, and 8-501—8-506, Annotated Code of Maryland

.06 School Stability.

A. (originally proposed text unchanged)

B. *Terms Defined. In this regulation, the following terms have the meaning indicated:*

(1)—(4) (originally proposed text unchanged)

(5) "Receiving school system" means the local school system serving the jurisdiction where the child welfare agency has placed the foster child.

(6) "School of origin" means the school the foster child attended prior to the most recent change ~~[[original placement or prior to the most recent change]]~~ in placement by the child welfare agency.

(7) "School system of origin" means the local school system serving the jurisdiction where the school of origin is located.

C. In accordance with Education Article, §7-101(b)(2)(i), Annotated Code of Maryland, the local school system superintendent of the school of origin shall allow a foster child to remain enrolled in the school of origin unless the child welfare agency responsible for the child provides notice to the principal of the school of origin and the Fostering Connections liaison in the receiving school system that it is not in the best interests of the child to remain enrolled in the school of origin, pursuant to the procedures set forth in COMAR 07.02.11.12B.

D. If the child welfare agency has determined that it is not in the best interests of the foster child to remain at the school of origin, the receiving school shall immediately enroll the child once a person authorized to enroll the child initiates the enrollment.

E. The receiving school shall immediately enroll the foster child even if the child welfare agency is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.

F. Notwithstanding any other enrollment documentation requirements of the receiving school, at the time of enrollment the receiving school may not require the person authorized to enroll the foster child to present more than documentation that the child is in the care of the child welfare agency and a written statement of the address where the child has been placed.

G. (originally proposed text unchanged)

H. *Transportation to School of Origin.*

(1)—(2) (originally proposed text unchanged)

(3) Section ~~[[E(1)]]~~ H(1) of this regulation shall not ~~[[be construed as]]~~ :

~~[[precluding]]~~ (a) Preclude the child welfare agency from making its own transportation arrangements, including arrangements with the school system of origin if it is different than the receiving school system; or

(b) ~~[[excusing]]~~ Excuse the child welfare agency from its obligation to provide transportation to the foster child in the absence of an agreement with the receiving school system.

I. *Fostering Connections Liaison.*

(1) Each local school system shall designate an individual as the Fostering Connections liaison.

(2) The Fostering Connections liaison for the school system of origin shall consult with the child welfare agency about whether it is in the best interests of the foster child to continue the child's education at the school of origin.

~~[[2)]]~~ (3) The Fostering Connections liaison for the ~~[[receiving]]~~ local school system where the foster child will attend school after a change in placement and best interests determination shall:

(a) Coordinate with the child welfare agency regarding ~~[[the continued]]~~ enrollment ~~[[of the foster child in the school of origin in accordance with Education Article, §7-101(b)(2)(ii), Annotated Code of Maryland, or enrollment at the receiving school]]~~;

~~[[b)]]~~ Serve as the initial school system contact with whom the child welfare agency communicates regarding the best interests determination and transportation for the foster child;

(c) Communicate with the school of origin and the Fostering Connections liaison in the jurisdiction of the school of origin regarding school placement after the child welfare agency has communicated its best interests determination;

~~[[d)]]~~ (b) If the foster child transfers schools, ~~[[F]]~~ facilitate the transfer of the child's educational records from the school of origin to the receiving school; and

~~[[e)]]~~ (c) Request periodic updates from Communicate with the child welfare agency regarding the foster child's ~~[[continued]]~~ attendance and performance at ~~[[the]]~~ school, ~~[[of origin; and]]~~

(4) If the child welfare agency arranges transportation with the receiving school system, the Fostering Connections liaison for the receiving school system will serve as the initial school system contact to help facilitate transportation arrangements.

~~[[f)]]~~ (5) The Fostering Connections liaison for each local school system shall ~~[[C]]~~ communicate the educational stability requirements of the Fostering Connections to Success and Increasing Adoptions Act of 2008 to appropriate school personnel.

~~[[3)]]~~ (6) (originally proposed text unchanged)

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PROPOSED ACTION ON REGULATIONS

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fiscal year included in the 5-year period shall be based on the amount the Comptroller certifies as net taxable income based on tax returns filed on or before:

- (a) September 1st for fiscal years 2015—2017; and
- (b) November 1st for fiscal year 2018 and each fiscal year thereafter.

(2) To calculate a county's increase in local wealth per pupil, divide the current fiscal year's local wealth per pupil by the prior fiscal year's local wealth per pupil and subtract 1.

(3) To calculate the Statewide average increase in local wealth per pupil, add together the 24 changes in local wealth per pupil as calculated in §B(2) of this regulation and divide by 24.

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Subtitle 08 STUDENTS

13A.08.07 Transfer of Educational Records for Children in State-Supervised Care

Authority: Education Article, §§2-205, 2-206, 4-122, and 8-501—8-506, Annotated Code of Maryland

Notice of Proposed Action
[15-114-P]

The Maryland State Board of Education proposes to adopt new Regulation .06 under COMAR 13A.08.07 Transfer of Educational Records for Children in State-Supervised Care. This action was considered at the December 16, 2014 meeting of the State Board of Education.

Statement of Purpose

The purpose of this action is to promote the educational stability of children in foster care.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

I. Summary of Economic Impact. There will be costs associated with transportation of foster children. All transportation costs will be the responsibility of the Local Departments of Social Services.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	(E+)	Unknown
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

B. Costs for transportation of foster children will be the responsibility of Local Departments of Social Services.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to John T. McGinnis, Pupil Personnel and School Social Worker Specialist, Division of Student, Family and School Support, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-0295 (TTY 410-333-6442), or email to john.mcginis@maryland.gov, or fax to 410-333-8148. Comments will be accepted through May 18, 2015. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland State Board of Education during a public meeting to be held on June 23, 2015, 9 a.m., at 200 West Baltimore Street, Baltimore, Maryland 21201.

.06 School Stability.

A. Scope. Children in foster care are children in State-supervised care to whom special provisions apply under the federal *Fostering Connections to Success and Increasing Adoptions Act of 2008* and under Education Article, §7-101(b)(2)(ii), Annotated Code of Maryland. The purpose of this regulation is to implement the educational stability requirements of those laws.

B. Terms Defined. In this regulation, the following terms have the meaning indicated:

(1) "Child welfare agency" means local department of social services or Department of Juvenile Services.

(2) "Enroll" and "enrollment" means attending classes and participating fully in school activities.

(3) Foster Child.

(a) "Foster child" means a child in the custody of, committed to, or otherwise placed by a local department of social services or the Department of Juvenile Services;

(b) "Foster child" does not include a child awaiting foster care placement as defined in COMAR 13A.05.09.02B or a child in any of the following placements:

(i) A detention facility;

(ii) A forestry camp;

(iii) A training school;

(iv) A State-owned and State-operated facility that accommodates more than 25 children, or

(v) Any other facility operated primarily for the detention of children who are determined to be delinquent.

(4) "Receiving school" means the school serving the geographic attendance area where the child welfare agency has placed the foster child.

(5) "Receiving school system" means the school system serving the jurisdiction where the child welfare agency has placed the foster child.

(6) "School of origin" means the school the foster child attended prior to the original placement or prior to the most recent change in placement by the child welfare agency.

C. In accordance with Education Article, §7-101(b)(2)(ii), Annotated Code of Maryland, the local school system superintendent of the school of origin shall allow a foster child to remain enrolled in

the school of origin unless the child welfare agency responsible for the child provides notice to the principal of the school of origin and the Fostering Connections liaison in the receiving school system that it is not in the best interest of the child to remain enrolled in the school of origin.

D. If the child welfare agency has determined that it is not in the best interest of the foster child to remain at the school of origin, the receiving school shall immediately enroll the child once a person authorized to enroll the child initiates the enrollment.

E. The receiving school shall immediately enroll the child even if the child welfare agency is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.

F. Notwithstanding any other enrollment documentation requirements of the receiving school, at the time of enrollment the receiving school may not require the person authorized to enroll the child to present more than documentation that the child is in the care of the child welfare agency and the address where the child has been placed.

G. The school of origin shall transmit the foster child's educational records to the receiving school in accordance with Education Article, §8-304, Annotated Code of Maryland, and Regulation .03 of this chapter upon receipt of notice from the receiving school that the child is attending school there.

H. Transportation to School of Origin.

(1) If the foster child remains enrolled in the school of origin, the receiving school system shall provide transportation for the foster child to attend the school of origin based on a written agreement with the child welfare agency for reimbursement of the transportation costs, unless the child welfare agency decides that it will provide the transportation.

(2) The receiving local school system shall provide the child welfare agency with documentation of transportation reimbursement rates.

(3) Section E(1) of this regulation shall not be construed as precluding the child welfare agency from making its own transportation arrangements or excusing the child welfare agency from its obligation to provide transportation to the foster child in the absence of an agreement with the receiving school system.

I. Fostering Connections Liaison.

(1) Each school system shall designate an individual as the Fostering Connections liaison.

(2) The Fostering Connections liaison for the receiving local school system shall:

(a) Coordinate with the child welfare agency regarding the continued enrollment of the foster child in the school of origin in accordance with Education Article, §7-101(b)(2)(ii), Annotated Code of Maryland, or enrollment at the receiving school;

(b) Serve as the initial school system contact with whom the child welfare agency communicates regarding the best interests determination and transportation for the foster child;

(c) Communicate with the school of origin and the Fostering Connections liaison in the jurisdiction of the school of origin regarding school placement after the child welfare agency has communicated its best interests determination;

(d) Facilitate the transfer of the child's educational records from the school of origin to the receiving school;

(e) Request periodic updates from the child welfare agency regarding the foster child's continued attendance at the school of origin; and

(f) Communicate the educational stability requirements of the Fostering Connections to Success and Increasing Adoptions Act of 2008 to appropriate school personnel.

(3) The Fostering Connections liaison may be the same individual who serves as the homeless education coordinator for the local school system.

LILLIAN M. LOWERY, Ed.D.
State Superintendent of Schools

Title 24
DEPARTMENT OF BUSINESS
AND ECONOMIC
DEVELOPMENT
Subtitle 05 ECONOMIC
DEVELOPMENT

24.05.22 Maryland E-Nnovation Initiative Program

Authority: Economic Development Article, §§2-108 and 6-601—6-623, Annotated Code of Maryland

Notice of Proposed Action
[15-111-P]

The Department of Business and Economic Development proposes to adopt new Regulations .01—,12 under a new chapter, COMAR 24.05.22 Maryland E-Nnovation Initiative Program.

Statement of Purpose

The purpose of this action is to implement the Maryland E-Nnovation Initiative Program (the "Program") and provide requirements and procedures for nonprofit institutions of higher education to submit applications for allocations of matching funds under the Program; for the Maryland E-Nnovation Initiative Fund Authority to review and evaluate such applications; and for nonprofit institutions of higher education to make requests for distributions from the Maryland E-Nnovation Initiative Fund following an allocation decision by the Authority.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. Because the Program is designed to stimulate innovation at nonprofit institutions of higher education, it is difficult to provide an accurate economic impact in the short run. However, research and development (R&D) is crucial to economic growth and business creation, and the Program will play an important role in helping nonprofit institutions of higher education acquire or complement those resources through the attraction of qualified donations to deepen their R&D activities. It is generally a well-accepted notion that there is a proven positive connection between the availability of scientists and the high rate of innovation. The best example of this is the Johns Hopkins University, which in 2011 occupied number four ranking among world's top educational institutions in filing for the largest number of patents. This innovative environment then leads to real business opportunities, such as the "FastForward" incubator, which in February expanded to a new large office in East Baltimore to accommodate the high demand of applications from about 80 firms. In addition, as competition for top talent has gone global, matching funds awarded to nonprofit institutions of higher education under the Program would also play a role in hiring scientists from around the world and bringing them to



1 N Charles St, Ste 200
 Baltimore, MD 21201
 (410) 625-9409
 fax (410) 625-9423
 www.publicjustice.org

John Nethercut
 Executive Director

Debra Gardner
 Legal Director

ATTORNEYS

Monisha Cherayil
 Sally Dworak-Fisher
 Matthew Hill
 Anna Jagelowski
 John Pollock
 Russell R. Reno, Jr.
 Camilla Roberson
 Zafar S. Shah
 Andrea Vaughn

Levern Blackmon
 Certified Paralegal

PARALEGALS

Emily Ford
 Rebecca Reynolds
 Hannah Walsh

Brenda Midkiff
 Office Manager

Jennifer Pelton, CFRE
 Development Director

Erin Brock
 Development Associate

Albi Mullai
 Administrative/
 Development Assistant

By Electronic Mail

May 18, 2015

John T. McGinnis
 Pupil Personnel and School Social Worker Specialist
 Division of Student, Family, and School Support
 Maryland State Department of Education
john.mcginnis@maryland.gov

Re: Proposed Amendment to COMAR 13A.08.07, "Transfer of Educational Records for Children in State Supervised Care"

Dear Mr. McGinnis:

I am writing on behalf of the Public Justice Center and Advocates for Children and Youth to comment on the changes to COMAR 13A.08.07 proposed by the Maryland State Department of Education (MSDE).

We applaud MSDE for proposing new regulations that, consistent with the federal Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections), Section 7-101(b) of the state Education Article, and Department of Human Resources Regulation COMAR 07.02.11.12(B), require local school systems to work with local Departments of Social Services (LDSSs) and the Department of Juvenile Services to promote the educational stability of children in out-of-home care. Children in out of home care frequently transfer schools or undergo a period of absences when changing placements, experiences which contribute to their low rates of school completion and success. MSDE's proposed regulations provide a critical tool through which educators and child welfare professionals, working together, can minimize the educational disruptions that children suffer when they enter out of home care or move from one placement to another. Therefore, the PJC and ACY support the proposed regulations, subject to the limited recommendations below.

First, we recommend amending the definition of "school of origin" at 13A.08.07.06(B)(6) of the proposed regulation as follows¹:

"School of origin" means the school the foster child attended prior to the original entering his or her current out-of-home placement ~~or prior to the most recent change in placement by the child welfare agency.~~

This change does not alter what appears to be the intended meaning of the term or the regulation as a whole. Rather, it avoids any unintended suggestion that a child in

¹ For all the changes recommended by these comments, strikethroughs indicate deletions and underlines indicate insertions.

foster care who had already undergone multiple placement changes could always return to the school s/he attended prior to entering care, even if the child had most recently been attending a different school. We believe that this limited change clarifies the proposed MSDE regulation, ensures that it is consistent with DHR's corresponding regulation at 07.11.12(B) and furthers the objectives of Fostering Connections and related law: to ensure that following a change in out-of-home placement, a foster child can continue at his or her current school (rather than transfer to a school that he or she attended at some point in the perhaps distant past).

Second, we recommend amending section 13A.08.07.06(C) of the proposed MSDE regulation as follows:

In accordance with Education Article, 7-101(b)(2)(ii), Annotated Code of Maryland, the local school system superintendent of the school of origin shall allow a foster child to remain enrolled in the school of origin unless the child welfare agency responsible for the child provides notice to the principal of the school of origin and the Fostering Connections liaison in the receiving school system that it is not in the best interest of the child to remain enrolled in the school of origin, pursuant to the procedures set forth at COMAR 07.08.11.12(B).

If it were to cross-reference DHR's Fostering Connections implementation regulation in this manner, the MSDE regulation would better communicate to local school systems the source of child welfare agencies' authority to make best interest determinations on behalf of children in out-of-home care, and the procedures by which the agencies are expected to do so. Of note, the DHR regulation requires that child welfare agencies make determinations "in consultation with the local education agency," as well as others who know the child wherever possible. It would be helpful for schools attempting to comply with the proposed MSDE regulation to be able to understand their role, as well as the role of child welfare agencies, as set forth in the corresponding DHR regulation.

Third, for the sake of clarity and internal consistency, we recommend amending section 13A.08.07.06(F), as follows:

Notwithstanding any other enrollment documentation requirements of the receiving school, at the time of enrollment the receiving school may not require the person authorized to enroll the child to present more than documentation that the child is in the care of the child welfare agency, and state in writing the address where the child has been placed.

This addition makes clear that receiving schools cannot insist on "proof" of address or residency prior to enrolling a child in out-of-home care, consistent with the "immediate and appropriate" enrollment requirements of Fostering Connections as well as the express prohibition on requiring "proof of residency" in section (E) of the proposed MSDE regulation.

Fourth, we recommend amending section 13A.08.07.06(H)(1) and (2) as follows:

- (1) If the foster child remains enrolled in the school of origin, the ~~receiving-school system~~ with jurisdiction over the school of origin shall provide transportation for the foster child to attend the school of origin based on a written agreement with the child welfare agency for reimbursement of the transportation costs, unless the child welfare agency decides that it will provide the transportation.
- (2) The ~~receiving-school system~~ with jurisdiction over the school of origin shall provide the child welfare agency with documentation of transportation reimbursement rates.

As currently written, the proposed regulation would require that where a child has moved from a placement in one county to a placement in another, the school system for the second county transport him or her back to his or her school of origin in the first county, even though the second county otherwise has no relationship with the child. This arrangement is counterintuitive and has the potential to cause confusion. For example, in the cross-county scenario described, if a foster child experienced an incident of bullying while riding a school bus or otherwise had a transportation-related question or concern, his or her foster parent or caseworker would have to communicate with the transportation officials for a school system that did not actually educate or otherwise have significant knowledge of the child. The recommended change ensures that transportation responsibility always lies with the child welfare agency and the school system in which the child is currently a student, rather than some other school system.

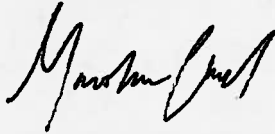
Finally, we recommend amending 13A.08.07.06(I)(2) of the proposed regulation as follows:

The Fostering Connections liaison for the ~~receiving-school system~~ school system where the child is a student shall . . . (c) Where the child has transferred schools following a change in placement and best interest determination, ~~c~~Communicate with the school of origin and the Fostering Connections liaison in the jurisdiction of the school of origin regarding school placement ~~after the child welfare agency has communicated its best interests determination;~~ (d) ~~Facilitate~~ Where the child has transferred schools following a change in placement and best interest determination, facilitate the transfer of the child's educational records from the school of origin to the receiving school; (e) Request periodic updates from the child welfare agency regarding the foster child's continued attendance and performance at the school of origin;

Similar to the one prior, this recommendation is intended to place responsibility for facilitating each foster child's stability and success with the school system where he or she is currently a student. Where a child has moved from a placement in one county to a placement in another, which school system is responsible should depend on whether the child has remained in his or her school of origin or transferred to a school within the receiving school system. In addition, with respect to the changes to section (e), this recommendation is designed to encourage school systems (through their Fostering Connections Liaisons) and child welfare agencies to monitor and support foster children's school performance generally, rather than focus only on the narrow issue of where they are attending school.

In closing, we wish to reiterate our strong support for the proposal generally, and our appreciation of MSDE's leadership on the issue. We hope you will find our suggestions useful, and we welcome any questions you may have. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Monisha Cherayil". The signature is fluid and cursive, with the first name being the most prominent.

Monisha Cherayil
Attorney
Public Justice Center
410-625-9409 x. 234
cherayilm@publicjustice.org

Melissa Rock
Child Welfare Director
Advocates for Children and Youth
410-547-9200 x. 3024
mrock@acy.org